

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed June 7, 2006. Claims 2-7, 10-19, 22-24 remain pending in the present application. Reconsideration and allowance of the application and pending claims are respectfully requested.

1. Allowable Subject Matter

Applicant appreciates the Examiner's indication that claims 10-11 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. In that it is believed that every rejection has been overcome, it is respectfully submitted that each of the claims that remains in the case is presently in condition for allowance.

2. Response to Objections of the Abstract

The abstract has been amended to provide additional details. Applicant believes the amendments overcome the objection to the abstraction and respectfully request the objection to be withdrawn.

3. Response to Objections of the Specification

The specification has been amended to overcome the objection to the specification. In particular, references to Figures 3a and 3b have been changed to correspond to Figures 6a and 6b. Therefore, Applicant respectfully requests withdrawal of the objection.

4. Response to Rejections of Claims under 35 U.S.C. § 112, Second Paragraph

Claim 8 stands rejected under 35 U.S.C. § 112, Second Paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim subject matter.

Claim 8 is canceled without prejudice, waiver, or disclaimer, and therefore, the rejection to this claim is rendered moot. Applicant takes this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of this canceled claim in a continuing application, if Applicant so chooses, and does not intend to dedicate any of the canceled subject matter to the public.

5. **Response to Objections of the Claims**

Claim 8 has been objected to because of an informality. Since claim 8 has been canceled, Applicant respectfully submits that the objection is rendered moot and should be withdrawn.

6. **Response To Rejections of Claims 1-5, 8-9, 12-15, 18-19, 22, and 24 Under 35 U.S.C. § 102**

Claims 1-5, 8-9, 12-15, 18-19, 22, and 24 have been rejected under 35 U.S.C. § 102(b) as being anticipated by *Aussem* ("Queuing Network Modelling with Distributed Neural Networks for Service Quality Estimation in B-ISDN Networks"). Applicant respectfully traverses this rejection.

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed subject matter must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(b). In the present case, not every feature of the claimed subject matter is represented in the *Aussem* reference. Applicant discusses the *Aussem* reference and Applicant's claims in the following.

a. **Claims 1-5 and 8-9**

Claim 10 has been indicated to be allowable over the cited art if rewritten to include the limitations of its base claim (claim 1) and any intervening claims (claims 8-9). Accordingly, to advance prosecution, claim 10 has been amended to include these limitations. Therefore, claim 10 and claims 2-5 which depend therefrom should be allowed over the cited art.

Claims 1, 8, and 9 are canceled without prejudice, waiver, or disclaimer, and therefore, the rejection to these claims are rendered moot. Applicant takes this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of these canceled claims in a continuing application, if Applicant so chooses, and does not intend to dedicate any of the canceled subject matter to the public.

b. Claims 12-15 and 18-19

Applicant respectfully submits that independent claim 12 is allowable for at least the reason that claim 12 shares similar features as claim 10 which has been indicated to be allowable over the cited art. Therefore, claim 12 and claims 13-19 which depend therefrom should be allowed over the cited art.

c. Claim 22

Applicant respectfully submits that independent claim 22 is allowable for at least the reason that *Aussem* does not disclose, teach, or suggest at least “wherein the input is representative of a planned action to transfer functionality of a data processor to another data processor in the network and if the output shows that the another data processor is not capable of performing the functionality, the planned action is modified to transfer the functionality to a different data processor,” as recited in claim 22.

Therefore, claim 22 is not anticipated by *Aussem*, and the rejection should be withdrawn for at least this reason alone.

d. Claim 24

Applicant respectfully submits that independent claim 24 is allowable for at least the reason that *Aussem* does not disclose, teach, or suggest at least a “subset of dataprocessors [being] operable to emulate the functionality of the plurality of dataprocessors in response to an input to the network to provide an output, the at least one neural network function being arranged such that the output is indicative of the expected response of the entire network to the input, wherein the input is representative of a planned action to transfer functionality of a dataprocessor to another dataprocessor in the network and if the output shows that the another dataprocessor is not capable of performing the functionality, the planned action is modified to transfer the functionality to a different dataprocessor,” as recited in claim 24.

Therefore, claim 24 is not anticipated by *Aussem*, and the rejection should be withdrawn for at least this reason alone.

7. Response To Rejections of Claims 20, 21, and 23 Under 35 U.S.C. § 102

Claims 20, 21, and 23 have been rejected under 35 U.S.C. § 102(b) as being anticipated by *Aussem II* (“Call Admission Control in ATM Networks with the Random Neural Network”). Applicant respectfully traverses this rejection.

It is axiomatic that “[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed subject matter must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(b). In the present case, not every feature of the claimed subject matter is represented in the *Aussem II* reference. Applicant discusses the *Aussem II* reference and Applicant's claims in the following.

a. Claims 20-21

Applicant respectfully submits that independent claim 20 is allowable for at least the reason that *Aussem II* does not disclose, teach, or suggest at least a “submitting a task allocation for execution by the network; executing a distributed modelling algorithm on the network, the modelling algorithm being arranged to model the response of the distributed network itself to the submitted task allocation; and determining if the modelled response is acceptable and if so allocating the submitted task to the network,” as recited in claim 20.

For example, *Aussem II* fails to teach or suggest that a task allocation is submitted to a network and before allocating the task to the network, a modelling algorithm is used to model the response of the task allocation on the network. Rather, *Aussem II* seemingly discloses modeling a network but does not use the model to determine whether to allocate a submitted task to a network.

Therefore, claim 20 and claim 21 which depends therefrom are not anticipated by *Aussem II*, and the rejection should be withdrawn for at least this reason alone.

b. Claim 23

Applicant respectfully submits that independent claim 23 is allowable for at least the reason that *Aussem II* does not disclose, teach, or suggest at least “prior to the execution of a desired operation on the distributed network, assigning a plurality of neural network functions to at least a sub-set of the distributed dataprocessors, the neural network functions being arranged such that the sub-set of distributed dataprocessors is operative to model the operation of the entire distributed network of dataprocessors; modelling the operation of the distributed network in response to the desired operation on the sub-set of distributed dataprocessors; and where the modelled response falls outside predetermined criteria,

modifying the desired operation prior to execution of the modified operation on the distributed network of dataprocessors,” as recited in claim 22.

For example, *Aussem II* fails to teach or suggest that a task allocation is submitted to a network and before allocating the task to the network, a modelling algorithm is used to model the response of the task allocation on the network. Rather, *Aussem II* seemingly discloses modeling a network but does not use the model to determine whether to allocate a submitted task to a network. Further, the Office Action suggest a teaching of reiterating the algorithm after modifying weights discloses “modifying the desired operation prior to execution of the modified operation,” as recited in the claim. Applicant respectfully disagrees since modification of weights affects the modeling algorithm but does not change the operation of the network that is being modeled.

As a result, *Aussem II* does not teach or suggest at least all of the claimed features of claim 23. Therefore, claim 23 is not anticipated by *Aussem II*, and the rejection should be withdrawn for at least this reason alone.

8. Response To Rejections of Claims Under 35 U.S.C. § 103

In the Office Action, claims 6 and 16 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Aussem* in view of *Official Notice*. Claims 7 and 17 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Aussem* in view of *Aussem II*. It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. *See, e.g., In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

All of the claimed features of independent claims 1 and 12 are not taught and suggested by *Aussem*, as previously discussed. Further, the cited art of *Aussem II* fails to cure the deficiencies of the *Aussem* reference in suggesting or teaching all of the claimed features in claims 6-7 and 16-17 (which depend from respective independent claims 1 and 12). Therefore, a *prima facie* case establishing an obviousness rejection by the proposed combination of the cited art has not been made. Therefore, the rejections of claims 6-7 and 16-17 should be withdrawn.

Additionally, Applicant respectfully traverses the finding in the Office Action of Official Notice with regard to claims 6 and 16. Per MPEP 2144.03(A), “It would not be

appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." Also, per MPEP 2144.03(B), "If such notice is taken, the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge."

As specific factual findings predicated on sound technical and scientific reasoning in support of the conclusion of common knowledge are not provided in the Office Action, the Official Notice and the rejections based upon this finding should be withdrawn. Further, under 37 CFR § 1.104(d)(2), if the rejections are based on facts within the personal knowledge of the examiner, "the data should be stated as specifically as possible, and the facts must be supported, when called for by the applicant, by an affidavit from the examiner. Such an affidavit is subject to contradiction or explanation by the affidavits of the applicant and other persons." Therefore, if this rejection is maintained, Applicant respectfully requests that document(s) be provided as support.

CONCLUSION

For at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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